

REMARKS

Claims 1-22 are pending in the present application. Claim 1 is in independent form.

I. **RESTRICTION REQUIREMENT**

In the Action, the Examiner requires Applicants to select one of the following groups for further prosecution on the merits:

- GROUP I claims 1-15, 20 and 21, drawn to a chemical compound and a pharmaceutical composition using the compound of formula I;
- GROUP II claims 16, 17 and 22, drawn to use claims using the chemical compound of formula I;
- GROUP III claims 18-19, drawn to a method of treatment of a disease in which down-regulation or inhibition of the expression or function of the IFG-1 receptor is beneficial using the chemical compound of formula I; and
- GROUP IV claims 18-19, drawn to a method of prophylaxis of a disease in which down-regulation or inhibition of the expression or function of the IFG-1 receptor is beneficial using the compound of formula 1.

II. **ELECTION OF SPECIES REQUIREMENT**

Furthermore, if Group II, III or IV is elected, the Examiner further requires Applicants to select a single disclosed disease state for further prosecution on the merits.

III. RESPONSE TO RESTRICTION AND ELECTION OF SPECIES REQUIREMENT

In response to the requirement, Applicants elect, with traverse, to prosecute Group I including claims 1-15, 20 and 21. Applicants specifically reserve the right to file a divisional application directed to the non-elected claims 16-19 and 22.

Furthermore, non-elected claims 16-19 and 22, dependent from and therefore require all of the features of elected claim 1. Thus, if claim 1 is allowed, Applicants respectfully request rejoinder of non-elected claims 16-19 and 22.

With respect to Applicants' traversal, MPEP §1893.03(d) states that "[w]hen making a lack of unity of invention requirement, the examiner **must** (1) list the different groups of claims and (2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group." Emphasis Added. Applicants note that the Examiner has **not** i) listed the different groups of claims that read on the different disease states and, or ii) explained why each disease state lacks unity with the other states, as required.

In addition, Applicants submit that Chapter 10.01 of the International Search and Preliminary Examination Guidelines state that "[w]ith respect to a group of inventions claimed in an international application, unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding

special technical features. The expression 'special technical features' is defined in Rule 13.2 as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art. The determination is made on the contents of the claims as interpreted in light of the description and drawings (if any)." Emphasis added. Applicants submit there is no indication in the description which indicates that the claimed individual disease states lack unity of invention.

Furthermore, Applicants note that the present application is a national stage application based on an international application. Applicants further note that no objection regarding the unity of invention was raised in the international application. As the primary objective of the PCT is to facilitate and unify the examination procedure in all national jurisdictions, Applicants submit that the Restriction and Election of Species Requirement in the present application should be withdrawn.

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CONCLUSION

For all of the above stated reasons, reconsideration and withdrawal of the outstanding Restriction and Election of Species Requirement is earnestly solicited.

In the event that any matters remain at issue in the present application, the Examiner is invited to contact the undersigned for the purpose of a telephonic interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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